LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS
200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
http://www.in.gov/legislative

FISCAL IMPACT STATEMENT

LS 7329
BILL NUMBER: HB 1483

NOTE PREPARED: Feb 15, 2011
BILL AMENDED: Feb 15, 2011

SUBJECT: Revenue Update Bill.

FIRST AUTHOR: Rep. Espich
FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

<u>**Summary of Legislation:**</u> (Amended) *Internal Revenue Code Reference Update:* The bill updates references to the Internal Revenue Code. It provides that amendments made to the federal earned income tax credit under the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (Tax Relief Act), are not included in the calculation of the Indiana earned income tax credit. It excludes changes made to the Internal Revenue Code under the Tax Relief Act and the Small Business Jobs Act of 2010 which affect the calculation of adjusted gross income. It also provides that certain amendments made to the Internal Revenue Code in 2010, are excluded from Indiana's definition of the Internal Revenue Code.

Licensees on Tax Warrant List: The bill provides that in order to renew or obtain a license to: (1) operate certain medical facilities; (2) operate a home health agency; (3) operate a health facility; (4) work with radiation or radioactive materials; (5) operate a debt management company; (6) act as a pawnbroker; (7) engage in the business of money transmission; or (8) engage in the business of cashing checks for consideration; the licensee will be required to receive a clearance from the Department of State Revenue (DOR) if the licensee is on DOR's most recent tax warrant list. It also provides that certain licensees will be required to receive a clearance from the DOR if the licensee is on DOR's most recent tax warrant list. (Current law provides that these licensees are required to receive a clearance from the DOR if the licensee has a delinquent tax liability.)

Retail Merchant Certificate: The bill provides that the DOR may not renew a registered retail merchant certificate if the retail merchant is delinquent in remitting withholding taxes. It provides that the DOR may revoke a retail merchant certificate of a taxpayer if: (1) the fee paid by the taxpayer to renew or acquire the retail merchant certificate is not honored by a financial institution; and (2) the taxpayer does not pay the fee in guaranteed funds within five days after receiving notice from the DOR that the fee was not honored by a financial institution.

Net Operating Loss: The bill clarifies the net operating loss deduction provisions for individuals and corporations such that the loss carryback is limited to 2 years regardless of whether carryback is allowed for a period greater than 2 years but less than 6 years under the Federal income tax.

Corporation Filing Deadline: The bill provides that a corporation that merges with another corporation has the same due date for filing its final annual income tax return as the corporation with which it merged.

Earned Income Tax Credit: The bill eliminates the income tax withholding provision that allows a taxpayer to receive an advanced earned income tax credit.

Inheritance Tax: The bill establishes requirements for the appraisal of property subject to the inheritance tax.

Standard Deduction Verification: The bill reduces from five to four the number of digits from an individual's Social Security number that must be submitted to the county auditor for purposes of confirming that the individual is claiming only one standard deduction.

Effective Date: Upon passage; November 6, 2009 (retroactive); January 1, 2011 (retroactive); July 1, 2011; January 1, 2012.

Explanation of State Expenditures: (Revised) *Department of State Revenue (DOR)*: The DOR will incur additional expenses to revise tax forms, instructions, and computer programs to reflect the addback and recomputation provisions in the bill for purposes of decoupling from federal tax law provisions. The impact of these changes could be significant and likely can't be implemented within the DOR's current resources.

The bill contains several clarifications or cleanup provisions that have minimal or no impact.

Explanation of State Revenues: (Revised) *Internal Revenue Code Reference Update:* The bill updates the reference to the Internal Revenue Code (IRC) to incorporate federal changes made up to January 1, 2011. The current reference to the IRC pertains to all IRC provisions amended and in effect on January 1, 2010. The update would include changes as a result of the following federal acts:

(1) The *Small Business Jobs Act of 2010* (P. L. 111-240), signed into law on September 27, 2010; and (2) The *Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010* (P. L. 111-312), signed into law on December 17, 2010.

The bill is not expected to generate a material fiscal impact because it decouples from provisions of the federal acts identified as having a fiscal impact.

The provisions of the *Small Business Jobs Act of 2010* that the bill decouples from includes a provision that increases the amount allowed as a deduction for business start-up expenditures for tax year 2010.

The provisions of the *Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010* that the bill decouples from includes the following provisions:

(1) An increase in the EITC phase-out level for joint filers for tax years 2011 and 2012.
(2) An increase in the EITC percentage for filers with 3 or more children for tax years 2011 and 2012.

(3) An exclusion of certain employer-provided educational assistance for tax years 2011 and 2012.
(4) A deduction for certain student loan interest for tax years 2011 and 2012.
(5) A deduction for certain higher education tuition and fees for tax years 2010 and 2011.
(6) A provision allowing business to expense brownfield remediation costs in the year paid or incurred for tax years 2010 and 2011.
(7) An exclusion for qualified charitable distributions of IRA funds for tax years 2010 and 2011.
(8) An exclusion for payment of income between controlled foreign corporations for tax years 2010 and 2011
(9) An accelerated cost recovery period for improvements made on leased property for property placed into service in tax years 2010 and 2011.
(10) A deduction of up to $250 for teacher classroom expenses in tax years 2010 and 2011.

Retail Merchant Certificate: The bill provides that the DOR may not renew a registered retail merchant certificate if the retail merchant is delinquent in remitting withholding taxes. This provision could lead to additional income tax collections. The magnitude of the impact is indeterminable but could be significant.

Earned Income Tax Credit (EITC): The bill eliminates the income tax withholding provision that allows a taxpayer to receive an advance refund of the EITC beginning in 2011. This change will not reduce the revenue loss from the EITC, as amounts formerly obtained through the advance refund feature would simply be claimed when the taxpayer files his or her tax return. The Federal advance EITC was eliminated beginning in 2011 under the *FAA Air Transportation Modernization and Safety Improvement Act of 2010* (P. L. 111-226).

The Indiana EITC is equal to 9% of the Federal EITC The advance EITC allows a taxpayer who qualifies for the EITC and has at least one qualifying child to receive part of the credit in each paycheck during the year. The advance EITC essentially reduces Indiana income tax withholdings for the taxpayer and increases their net pay. The table below reports the advance EITC activity from 2003 to 2008 relative to claims of the EITC on tax returns.

	Advance EITC		EITC	
Year	Filers Receiving	Total Received	Filers Receiving	Total Received
2003	240	$30,777	386,888	$40.8 M
2004	279	$51,367	411,562	$44.2 M
2005	272	$28,955	427,859	$47.4 M
2006	190	$23,211	440,508	$50.4 M
2007	160	$21,882	467,383	$54.9 M
2008	549	$71,229	480,544	$58.9 M

Explanation of Local Expenditures: (Revised) *Standard Deduction Verification:* Under HEA 1344 (2009), an individual that applies for a homestead standard deduction must supply the individual and spouse's names as they appear in Social Security Administration records or as they appear when signing legal documents and the last five digits of their social security numbers. If an individual does not have a Social Security number then the last five digits of a driver's license number, state I.D. card number, or federal document control number would have to be provided.

Currently, the county treasurer also must include an additional notice along with the mailing of the TS-1 property tax statement in 2010, 2011, and 2012 that explains the tax consequences and penalties for unlawfully claiming a standard deduction. Homeowners must return a verification of homestead deduction eligibility that includes the same information as outlined above.

The collected data is being compiled in a database by the DLGF and secure access given to county auditors for the purpose of verifying that the individual is claiming only one standard deduction.

Under this bill, the five digit requirement would be reduced to four digits. The data already collected could be modified to use only four of the five digits. The smaller pool of four digit numbers (9,999 possibilities) would make it more likely that some searches would initially show a duplicate. The county auditor would then investigate to verify whether these are the same individual.

Explanation of Local Revenues:

State Agencies Affected: Department of State Revenue; various licensing agencies.

Local Agencies Affected: County auditors.

Information Sources: Tom Conley, Department of State Revenue, (317) 232-2107; Bob Lain, State Budget Agency, (317) 232-3471. OFMA Income Tax databases, 2003-2008. U.S. Congress, Joint Committee on Taxation, *JCT Publications 2010*, http://www.jct.gov/publications.html?func=select&id=48.

Fiscal Analyst: Jim Landers, 317-232-9869.